

Message Text

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FM SECSTATE WASHDC
TO AMEMBASSY CANBERRA
AMCONSUL MELBOURNE

UNCLAS STATE 217482

FOLLOWING TELEGRAM FROM HQ US CUSTOMS SERVICE WASHDC DATED
SEPTEMBER 6, 1977 SENT SECSTATE WASHDC IS REPEATED TO YOU: QUOTE

UNCLAS CUSTOMS 6157
STATE FOR: AUSTRALIAN DESK (ATTN: TOM WADJA)

REF: AMCONSUL MELBOURNE 01874 P 290440Z AUG 77
SUBJ: COMPLAINT BY AUSTRALIAN CITIZEN REGARDING TREATMENT OF
HIS SON BY U.S. CUSTOMS

1. REFERENCE CITED COMPLAINT BY MR. RAY SMITH FROM AUSTRALIA THAT HIS SON HAD BEEN SEARCHED AND RECTALLY EXAMINED BY U.S. CUSTOMS OFFICERS AT SAN FRANCISCO AIRPORT ON 17 JULY 1977. MR. SMITH PROTESTED STRONGLY THIS TREATMENT ESPECIALLY SINCE NOTHING WAS FOUND.

2. A COMPLETE CHECK OF CUSTOMS RECORDS AT SAN FRANCISCO REVEALS THAT MURRAY SMITH WAS PROCESSED THRU CUSTOMS AT SFO ON 17 JULY 1977. HE DECLARED 200 DUNHILL CIGARETTES AND ONE BOTTLE OF BACARDI WHICH WERE PASSED FREE UNDER A NON-RESIDENT EXEMPTION. MR. SMITH WAS PROCESSED BY A FEMALE INSPECTOR WHO DID NOT REFER HIM FOR ANY FURTHER UNCLASSIFIED

UNCLASSIFIED

PAGE 02 STATE 217482

EXAMINATION. THE DECLARATION TENDERED BY MR. SMITH HAD NO NOTATIONS INDICATING THAT REFERRAL MAY HAVE TAKEN PLACE. INTERVIEWS WITH SUPERVISORY INSPECTORS AND WITH ALL OTHER PERSONNEL WHO MAY HAVE BEEN INVOLVED IN SUCH A SEARCH AT THAT TIME WERE CONDUCTED WITH NEGATIVE RESULTS. THERE WAS NO RECORD OF NEGATIVE PERSONNEL SEARCH WHICH IS COMPLETED EVEN IF ONLY A POCKET SEARCH IS MADE.

IN SHORT, NO PERSONNEL SEARCH WAS CONDUCTED OF MURRAY SMITH AT SFO.

3. PERHAPS A SEARCH WAS CONDUCTED DURING A SUBSEQUENT BORDER CROSSING BY EITHER U.S. OR CANADIAN CUSTOMS OFFICIALS, BUT WE HAVE NO WAY OF KNOWING WITHOUT FURTHER INFORMATION FROM MR. SMITH. IT COULD ALSO BE THAT A SEARCH, NOT AS DETAILED AS ALLEGED, WAS CONDUCTED BY AIR SECURITY PERSONNEL.

4. CUSTOMS POLICY, AS SUPPORTED BY AND REQUIRED BY NUMEROUS COURT DECISIONS, IS EXTREMELY RIGID WITH REGARD TO THE CONDUCT OF PERSONAL SEARCHES ESPECIALLY WHEN THEY GO AS FAR AS STRIP SEARCHES OR CAVITY EXAMS. NOT ONLY MUST THERE BE A "CLEAR INDICATION" OR A "PLAIN SUGGESTION" THAT CONTRABAND IS SECRETED IN THE SUSPECT CAVITY, BUT ALSO ANY EXAMINATION MUST BE MADE BY A MEDICAL DOCTOR UNDER CLINICAL CONDITIONS.

5. IN THE ABSENCE OF FURTHER INFORMATION WE MUST CONCLUDE THAT MR. SMITH IS CONFUSED REGARDING THE TIME, THE PLACE, OR THE AGENCY BY WHOM SUCH AN EXAMINATION MAY HAVE BEEN CONDUCTED. PLEASE DO NOT HESITATE TO CONTACT MY OFFICE SHOULD FURTHER QUESTIONS ARISE.

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PAGE 03 STATE 217482

VERNON V HANN
ACTING ASSISTANT COMMISSIONER
OFFICE OF OPERATIONS
U S CUSTOMS SERVICE WASHDC UNQUOTE VANCE

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